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Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT**

**DISTRICT OF UTAH, CENTRAL DIVISION**

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JENNIFER RICHARDS,	:	<b>ANSWER</b>
Plaintiff,	:	
vs.	:	
CONVERGYS CORPORATION,	:	Consolidated Case No. 2:05CV00790 DAK
Defendant.	:	(formerly 2:05CV00812 DAK)
	:	
	:	Judge Dale A. Kimball
EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION,	:	
Plaintiff,	:	
vs.	:	
CONVERGYS CORPORATION,	:	
Defendant.	:	

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For its Answer to Plaintiff Equal Employment Opportunity Commission's Complaint ("EEOC"), Defendant Convergys Corporation ("Convergys"), by and through counsel, hereby states as follows:

**FIRST DEFENSE**

1. Defendant admits that Plaintiff is attempting to bring claims under the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963 and the Civil Rights Acts of 1964 and 1991. Defendant denies the remaining allegations contained in paragraph 1 of the Complaint and denies that Plaintiff has stated a claim under these statutes and further denies the existence of facts and circumstances that would justify relief under these statutes. Defendant denies the remaining allegations contained in paragraph 1 of the Complaint.

2. To the extent Defendant understands Plaintiff's allegations, Defendant admits the allegations contained in paragraph 2 of the Complaint.

3. Defendant admits the allegations contained in paragraph 3 of the Complaint.

4. Defendant admits the allegations contained in paragraph 4 of the Complaint.

5. Defendant admits the allegations contained in paragraph 5 of the Complaint.

6. Defendant admits the allegations contained in paragraph 6 of the Complaint.

7. Defendant admits the allegations contained in paragraph 7 of the Complaint.

8. Defendant admits that Jennifer Richards filed a charge of discrimination with the Commission more than thirty days prior to the institution of this lawsuit. Defendant denies the remaining allegations contained in paragraph 8 of the Complaint.

9. Defendant denies the allegations contained in paragraph 9 of the Complaint.

10. Defendant denies the allegations contained in paragraph 10 of the Complaint.

11. Defendant denies the allegations contained in paragraph 11 of the Complaint.

12. Defendant denies the allegations contained in paragraph 12 of the Complaint.

13. Defendant denies the allegations contained in paragraph 13 of the Complaint.

14. Defendant denies the allegations contained in paragraph 14 of the Complaint.

15. Defendant denies the allegations contained in paragraph 15 of the Complaint.

16. Defendant denies that Plaintiff is entitled to any of the relief requested in its

Prayer for Relief.

17. Defendant denies each and every allegation not specifically admitted in this Answer.

#### **SECOND DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

#### **THIRD DEFENSE**

Plaintiff is barred from recovering damages against Defendant to the extent Jennifer Richards has failed to mitigate her damages, if any.

#### **FOURTH DEFENSE**

Defendant asserts the affirmative defense of waiver and/or laches.

#### **FIFTH DEFENSE**

Defendant asserts the affirmative defense of estoppel.

#### **SIXTH DEFENSE**

Plaintiff's claims are barred by the applicable statutes of limitation.

#### **SEVENTH DEFENSE**

Plaintiff's claims are barred to the extent that it has failed to exhaust its contractual, administrative and/or procedural prerequisites to suit.

#### **EIGHTH DEFENSE**

Plaintiff is barred from recovering damages to the extent there is after-acquired evidence.

**NINTH DEFENSE**

Any alleged differences in salary are attributable to differences in seniority, merit, quantity or quality of production, or for other factors other than gender.

**TENTH DEFENSE**

Plaintiff is not entitled to punitive damages because they are barred by Defendant's good faith efforts to comply with the law.

**ELEVENTH DEFENSE**

Plaintiff's claims are barred to the extent there was bankruptcy.

**TWELFTH DEFENSE**

Plaintiff's claims are barred by failure to engage in good faith conciliation efforts.

**THIRTEENTH DEFENSE**

Plaintiff's claims are barred by lack of subject matter jurisdiction.

Wherefore, having fully answered, Defendant demands that the Complaint be dismissed with prejudice, at Plaintiff's cost, and that Plaintiff be ordered to pay Defendant's attorneys' fees and expenses incurred in defending against Plaintiff's lawsuit, and that the Court award such other relief as is just and proper.

Respectfully submitted on December 12, 2005.

/s/ Michael Patrick O'Brien

Michael Patrick O'Brien (USB #4894)

Ali Levin (USB #9409)

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 12th day of December 2005, I caused to be sent by the court's e-filing system or to be mailed, first-class postage prepaid, a true and correct copy of the foregoing ANSWER to the following:

Mary Jo O'Neill  
C. Emanuel Smith  
Sandra J. Padegimas  
Equal Employment Opportunity Commission  
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/s/ Michael Patrick O'Brien